

QUITCLAIM DEED

KNOW ALL BY THESE PRESENTS, that the UNITED STATES OF AMERICA, acting by and through the Administrator of the General Services Administration (the "Grantor"), under and pursuant to the powers and authority contained in the provisions of the Property Act (116 Stat. 1062, 40 USC 553), and the regulations and orders promulgated there under, having an address of General Services Administration, New England Region, Thomas P. O'Neill Federal Building, 10 Causeway Street, Boston, Massachusetts 02222, (the "Grantor"), for ONE MILLION ONE HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS (\$1,125,000.00) the receipt of which is hereby acknowledged, does hereby GRANT, GIVE, REMISE, AND RELEASE, without covenants, warranties or representations of any kind or nature, express or implied, unto Robert G. Paulus, having an address at 186 Phalanx Road, Colts Neck, New Jersey 07722 (the "Grantee"), its successors and assigns, all such right, title, and interest as the Grantor has in and to certain real property, commonly known as the former New Brunswick Laboratory Site ("the Property"), New Brunswick, New Jersey. The property is comprised of Lot 6 in Block 598, a 5.61 acre, more or less, parcel of unimproved land with an address at 986 Jersey Avenue, New Brunswick, New Jersey, and being more fully described as follows:

All that certain lot, tract or parcel of land situate, lying and being in the City of New Brunswick, in the County of Middlesex, and the State of New Jersey and being all of Existing Block 598 Lot 6, said lot as shown on a the Official Tax Map of the City of New Brunswick, sheet no. 80, said lots also as shown on a certain map entitled "Plan of Survey, S.M. Stoller Corporation, Block 598 Lot 6, The City of New Brunswick, Middlesex County, New Jersey", prepared by Schoor DePalma, Manalapan, N.J., dated May 5, 2006, and being further described as follows, to wit;

BEGINNING at a point marked by a re-bar with cap found in the existing southeasterly line of Jersey Avenue, (66' R.O.W.), said line being distant 33' measured southeasterly from and parallel with the centerline thereof, said point, being the point of intersection formed by the existing southwesterly line of Lot 2 Block 598, said adjoining lot as shown on the aforesaid map, where said line intersects the aforesaid existing southeasterly line of Jersey Avenue, and from said point of intersection running, thence;

1) South forty degrees thirty-three minutes zero seconds East (S 40°33'00" E), six hundred thirty and thirty-nine hundredths feet (630.39'), along the aforesaid existing southwesterly line of Lot 2 Block 598 and beyond, along the existing southwesterly line of Lot 3 Block 598, to a point in the existing northwesterly line of Lot 3.01 Block 598, said adjoining lots as shown on the aforesaid map, thence;

2) South fifty degrees zero minutes zero seconds West (S 50°00'00" W), three hundred sixty five and fourteen hundredths feet (365.14'), along the aforesaid existing northwesterly line of Lot 3.01 Block 598, to a point in the same, thence;

3) North forty-nine degrees fifty-three minutes fifteen seconds West (N 49°53'15"

W), five hundred fifty-nine and thirty-four hundredths feet (559.34'), along the existing northeasterly line of Lot 7 Block 598, said adjoining lot as shown on the aforesaid map, to a point in the aforesaid existing southeasterly line of Jersey Avenue, thence; North forty degrees six minutes forty-five seconds East (N 40°06'45" E), four hundred sixty two and zero hundredths feet (462.00'), along the aforesaid existing southeasterly line of Jersey Avenue, to a point in the same, the Point and Place of **BEGINNING. CONTAINING** 244,295.18 square feet of land or 5.61 acres of land more or less.

The Property is conveyed subject to any and all existing reservations, easements, restrictions, covenants, and rights, recorded or unrecorded, including those for roads, highways, streets, railroads, power lines, telephone lines and equipment, pipelines, drainage, sewer and water mains and lines, public utilities, and rights-of-way, and including but not limited to, any specific easements, reservations, rights, and covenants described herein; any state of facts that would be disclosed by a physical examination of the Property; any state of facts that an accurate and adequate survey of the Property would disclose; and any and all other matters of record.

The Property is conveyed subject to the following further covenants, conditions, matters and restrictions:

CONDITION OF PROPERTY. The Grantee, in accepting this Deed, acknowledges and attests that it has inspected, is aware of, and accepts the condition and state of repair of the Property. It is understood and agreed that the Property is conveyed 'as is' and 'where is' without any representation, warranty or guarantee of any kind or nature, express or implied, including, without limitation, any representation, warranty or guarantee as to quantity, quality, character, condition, size or kind, or that the same is in any particular condition or fit to be used for any particular purpose. The Grantee, in accepting this Deed, acknowledges that the Grantor has made no representation or warranty concerning the condition or state of repair of the Property that has not been fully set forth in this Deed.

The Property is further subject to the terms and conditions of the Deed Notice dated September 10, 2007, and recorded at the Office of the Clerk of Middlesex County, New Jersey at Book 05871 Page 0866 on September 20, 2007 and attached hereto and included herein as Exhibit A.

The Deed Notice imposes restrictions on disturbing the soil cap covering the affected area, as defined in the Deed Notice, and requires that the U.S. Department of Energy (hereafter referred to as "DOE") certify through biennial inspection that the area has not been disturbed and remains protective. The NJDEP has also issued a "No Further Action" letter for the property in Oct 2008, attached hereto and included herein as Exhibit B

NOTICE & COVENANT REGARDING HAZARDOUS SUBSTANCE ACTIVITY

Notice Regarding Hazardous Substance Activity. Pursuant to 40 CFR 373.2 and Section 120(h)(3)(A)(i) of the Comprehensive Environmental Response, Compensation and Liability Act

of 1980, as amended (CERCLA)(42 U.S.C. 9620 (h)(3)(A)(i) the DOE herein provides to the Grantee notice of previous history of hazardous substance(s) activity on the Site, attached hereto and incorporated herein as Exhibit C, which reflects the following information available to DOE: (1) the type and quantity of hazardous substances that were known to have been released or disposed of or stored for one (1) year or more on the Site; (2) the time such storage, release or disposal took place; and (3) a description of remedial action taken as required under Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and 42 U.S.C. § 9620(h)(3)(A)(i).

CERCLA Covenant. DOE warrants that all remedial action necessary to protect human health and the environment has been taken before the date of this conveyance. DOE covenants that any additional remedial action found to be necessary after the date of transfer of this Property shall be conducted by the DOE. Additional information about site activities and conditions can be obtained by contacting the DOE at U.S. Department of Energy, Office of Legacy Management, Grand Junction, Colorado, (970) 248-6070.

Reservation of Right of Access. DOE hereby reserves and Grantee accepts on behalf of itself and its successors and assigns, a right of access to all portions of the Property for environmental investigation, remediation or other corrective action found to be necessary regarding site substances located on the Property as of the date of transfer. This reservation includes the right of access to and use of available utilities at reasonable cost to DOE. These rights shall be exercisable in any case in which a remedial action, response action, or corrective action is found to be necessary after the date of this conveyance, or in which access is necessary to carry out a remedial action, response action, or corrective action on adjoining property. Pursuant to this reservation, the United States of America, and its respective officers, agents, employees, contractors, and subcontractors shall have the right to enter upon the Property and conduct investigations and surveys, to include drilling, borings, data and records compilation, and other activities related to environmental investigation, and to carry out remedial or removal actions as required or necessary, including but not limited to the installation and operations of monitoring wells, pumping wells, and treatment facilities, and use of other actions deemed necessary by the DOE to comply with all federal and state statutes, regulations, or any court order. Grantee acknowledges that the removal of contamination may necessitate destruction of certain improvements at the Property and agrees to enter into negotiation with DOE to determine appropriate and reasonable reparations.

This covenant shall not apply: (a) in any case in which Grantee, its successors or assigns, or any successor in interest to the Property or part thereof is a Potentially Responsible Party (PRP) with respect to the Property immediately prior to the date of this conveyance; OR (b) to the extent that such additional response action or part thereof found to be necessary is the result of an act or failure to act of the Grantee, its successors or assigns, or any party in possession after the date of this conveyance that either: (i) results in a release or threatened release of a hazardous substance that was not located on the Property on the date of this conveyance; or, (ii) causes or exacerbates the release or threatened release of a hazardous substance the existence and location of which was known and identified to the applicable regulatory authority as of the date of this conveyance.

In the event Grantee, its successors or assigns, seeks to have DOE conduct any additional response action, and, as a condition precedent to DOE incurring any additional cleanup obligation or related expenses, the Grantee, its successors or assigns, shall provide DOE at least 45 days written notice of such a claim. In order for the 45-day period to commence, such notice must include credible evidence that: (a) the associated contamination existed prior to the date of this conveyance; and (b) the need to conduct any additional response action or part thereof was not the result of any act or failure to act by the Grantee, its successors or assigns, or any party in possession.

OBJECTS AFFECTING NAVIGABLE AIRSPACE. Pursuant to the requirements of House Report Number 95-1053 entitled "FAA Determinations of 'No Hazard' For Structures Near Airports", it has been determined that Newark International Airport is located within six (6) nautical miles of the Property. No construction on or alteration of the Property or any portion thereof shall be undertaken by the Grantee, his heirs, successors or assigns unless and until a written determination of no hazard to air navigation shall have been issued by the FAA pursuant to 14 CFR Part 77, "Objects Affecting Navigable Air Space", or under the authority of the Federal Aviation Act of 1958, as amended. This restriction shall run with the Property.

All of the covenants, conditions, restrictions, reservations and obligations described in this Deed run with the Property and are binding upon the Grantee and its heirs, successors and assigns. Grantee's acceptance of this Deed is an acknowledgement that it is bound by all such covenants, conditions, restrictions and obligations.

TO HAVE AND TO HOLD the Property with all privileges and appurtenances thereunto belonging to said Grantee.

IN WITNESS WHEREOF, the UNITED STATES OF AMERICA, acting by and through the Administrator of General Services has caused these presents to be duly executed for and in its name and behalf by Glenn C. Rotondo, Acting Regional Administrator, General Services Administration, New England Region who has this 29th day of October, 2009 hereunto set his hand and seal.

UNITED STATES OF AMERICA

By and through the Administrator of the General
Services Administration

B(6)

Witness

B(6)

Witness

B(6)

Glenn C. Rotondo
Acting Regional Administrator
General Services Administration
New England Region
Boston, Massachusetts

ACKNOWLEDGEMENT

Commonwealth of Massachusetts

County of Suffolk ss.

In Boston, in said County and State, on this 29 day of October 2009 before me personally appeared Glenn C. Rotondo, Acting Regional Administrator, General Services Administration, Boston, Massachusetts, duly empowered and authorized, proved to me through satisfactory evidence of identification, which was a U.S. General Services Administration ID Card, to be the person whose name is signed on the preceding instrument and by him duly executed, to be his free act and deed in his capacity as Acting Regional Administrator, General Services Administration, Boston, Massachusetts.

B(6)

Carol Chirico

Notary Public

My commission expires: October 14, 2009

EXHIBIT A

Deed Notice

MIDDLESEX COUNTY CLERK

Return To:

STEVEN R. SCHIESSWOHL
US DEPT OF ENERGY
11025 DOVER STREET -SUITE 1000
WESTMINSTER, CO 80021-5573

United States of America
~~U.S. DEPARTMENT OF ENERGY, OFFICE OF LEGACY MANAGEMENT~~

Index DEED BOOK

Book 05871 Page 0866

No. Pages 0030

Instrument DEED W/O ABSTRA

Date : 9/20/2007

Time : 1:16:50

Control # 200709200435

INST# DE 2007 014781

Employee ID THOMPL

RECORDING	\$	165.00
DARM	\$	87.00
NJPRPA	\$	58.00
- - - -	\$.00
- - - -	\$.00
- - - -	\$.00
- - - -	\$.00
- - - -	\$.00
- - - -	\$.00
- - - -	\$.00
Total:	\$	310.00

STATE OF NEW JERSEY
MIDDLESEX COUNTY CLERK

ELAINE FLYNN
COUNTY CLERK



200709200435

NBL 000



Cover sheet is part of Middlesex County filing record

Retain this page for future reference

Not part of the original submitted document

DO NOT REMOVE THIS PAGE.
TO ACCESS THE IMAGE OF
THE DOCUMENT RECORDED
HEREUNDER BY BOOK AND
PAGE NUMBER, USE THE
BOOK AND PAGE NUMBER
ABOVE.

805871P0866

N.J.A.C. Section 7:26E - Deed Notice
U.S. Department of Energy Office of Legacy Management
986 Jersey Avenue, New Brunswick, Middlesex County, NJ

WHEN RECORDED RETURN TO
Steven R. Schiesswohl, Realty Officer
US Department of Energy, Office of Legacy Management
11025 Dover Street, Suite 1000
Westminster, CO 80021-5573

Date:
Fee:
Recorder:
Filed by:
For:

Deed Notice
986 Jersey Avenue, New Brunswick, Middlesex County, NJ

IN ACCORDANCE WITH N.J.S.A. 58:10B-13, THIS DOCUMENT IS TO BE
RECORDED IN THE SAME MANNER AS ARE DEEDS AND OTHER INTERESTS IN
REAL PROPERTY.

(b) (6)

Prepared by:
[Signature]

Christopher Clayton
[Print name below signature]

Recorded by:

[Signature, Officer of County Recording Office]

[Print name below signature]

SEP 20 PM 1:21
CLERK

DEED NOTICE

This Deed Notice is made as of the 10th day of September, 2007, by the United States of America, c/o U.S. Department of Energy, Office of Legacy Management, 1000 Independence Avenue SW, Washington, DC, 20585 (together with his/her/its/their successors and assigns, collectively "Owner").

1. THE PROPERTY. The United States of America, c/o U.S. Department of Energy (DOE) Office of Legacy Management, is the owner in fee simple of certain real property designated as Block(s) 598 Lot(s) 6, on the tax map of the City of New Brunswick, Middlesex County; the New Jersey Department of Environmental Protection Program Interest Number (Preferred ID) for the contaminated site which includes this property is G000000080; and the property is more particularly described in Exhibit A, which is attached hereto and made a part hereof (the "Property").

2006
29

The United States obtained the Property by virtue of the following deeds recorded in the Office of the Clerk/Register of Middlesex County, New Jersey:

- 1) Deed from The McBee Company to United States of America dated August 27, 1948, and recorded August 31, 1948 at Book 1406 Page 476 and
- 2) Deed from Manor Real Estate to United States of America dated March 18, 1949 and recorded August 22, 1949 at Book 1456 Page 312.

2. DEPARTMENT'S ASSIGNED BUREAU. The Bureau of Case Management was the New Jersey Department of Environmental Protection program that was responsible for the oversight of the remediation of the Property. The matter was Case No. G000000080.

3. SOIL CONTAMINATION. The DOE and the U. S. Army Corps of Engineers have remediated contaminated soil at the Property. The New Jersey Department of Environmental Protection approved a Remedial Investigation Technical Memorandum on _____, establishing that soil contamination remains in certain areas of the Property consisting of arsenic contamination in concentrations that do not allow for the unrestricted use of the Property; this soil contamination is described, including the type, concentration and specific location of such contaminants, in Exhibit B, which is attached hereto and made a part hereof. As a result, there is a statutory requirement for this Deed Notice and engineering controls in accordance with N.J.S.A. 58:10B-13.

4. CONSIDERATION. In accordance with the New Jersey Department of Environmental Protection's approval of the remedial action work plan for the remediation of the site which included the Property, and in consideration of the terms and conditions of that approval, and other good and valuable consideration, Owner has agreed to subject the Property to certain statutory and regulatory requirements which impose restrictions upon the use of the Property, to restrict certain uses of the Property, and to provide notice to subsequent owners, lessees and operators of the restrictions and the monitoring, maintenance, and biennial certification requirements outlined in this Deed Notice and required by law, as set forth herein.

5A. RESTRICTED AREAS. Due to the presence of these contaminants, the Owner has agreed, as part of the remedial action for the Property, to restrict the use of certain parts of the Property (the "Restricted Areas"); a narrative description of these restrictions, along with the associated monitoring and maintenance activities and the biennial certification requirements are provided in Exhibit C, which is attached hereto and made a part hereof. The Owner has also agreed to maintain a list of these restrictions on site for inspection by governmental enforcement officials.

5B. ENGINEERING CONTROLS. Due to the presence and concentration of these contaminants, the Owner has also agreed, as part of the remedial action for the Property, to the placement of certain engineering controls on the Property; a narrative description of these

engineering controls, along with the associated monitoring and maintenance activities and the biennial certification requirements are provided in Exhibit C.

6A. ALTERATIONS, IMPROVEMENTS, AND DISTURBANCES.

i. Except as provided in Paragraph 6B, below, no person shall make, or allow to be made, any alteration, improvement, or disturbance in, to, or about the Property which disturbs any engineering control at the Property without first obtaining the express written consent of the Department of Environmental Protection. Nothing herein shall constitute a waiver of the obligation of any person to comply with all applicable laws and regulations including, without limitation, the applicable rules of the Occupational Safety and Health Administration. To request the consent of the Department of Environmental Protection, contact:

Department of Environmental Protection
Division of Remediation Management and Response
Bureau of Operation, Maintenance, and Monitoring
Deed Notice Inspection Program
P.O. Box 413
401 E. State Street
Trenton, NJ 08625-0413

ii. Notwithstanding subparagraph 6A.i., above, the Department of Environmental Protection's express written consent is not required for any alteration, improvement, or disturbance provided that the owner, lessee or operator:

(A) Notifies the Department of Environmental Protection of the activity by calling the DEP Hotline, at 1-877-WARN-DEP or 1-877-927-6337, within twenty-four (24) hours after the beginning of each alteration, improvement, or disturbance;

(B) Restores any disturbance of an engineering control to pre-disturbance conditions within sixty (60) calendar days after the initiation of the alteration, improvement or disturbance;

(C) Ensures that all applicable worker health and safety laws and regulations are followed during the alteration, improvement, or disturbance, and during the restoration;

(D) Ensures that exposure to contamination in excess of the applicable remediation standards does not occur;

(E) Submits a written report, describing the alteration, improvement, or disturbance, to the Department of Environmental Protection within sixty (60) calendar days after the end of each alteration, improvement, or disturbance. The owner, lessee or operator shall include in the report the nature of the alteration, improvement, or disturbance, the dates

and duration of the alteration, improvement, or disturbance, the name of key individuals and their affiliations conducting the alteration, improvement, or disturbance, a description of the notice the Owner gave to those persons prior to the disturbance, the amounts of soil generated for disposal, if any, the final disposition and any precautions taken to prevent exposure. The owner, lessee, or operator shall submit the report to:

Department of Environmental Protection
Division of Remediation Management and Response
Bureau of Operation, Maintenance, and Monitoring
Deed Notice Inspection Program
P.O. Box 413
401 E. State Street
Trenton, NJ 08625-0413

6B. EMERGENCIES. In the event of an emergency which presents, or may present, an unacceptable risk to the public health and safety, or to the environment, any person may temporarily breach any engineering control provided that that person complies with each of the following:

- i. Immediately notifies the Department of Environmental Protection of the emergency, by calling the DEP Hotline at 1-877-WARNDEP or 1-877-927-6337;
- ii. Limits both the actual disturbance and the time needed for the disturbance to the minimum reasonably necessary to adequately respond to the emergency;
- iii. Implements all measures necessary to limit actual or potential, present or future risk of exposure to humans or the environment to the contamination;
- iv. Notifies the Department of Environmental Protection when the emergency has ended by calling the DEP Hotline at 1-877-WARNDEP or 1-877-927-6337;
- v. Restores the engineering control to the pre-emergency conditions as soon as possible, and provides a written report to the Department of Environmental Protection of such emergency and restoration efforts within sixty (60) calendar days after completion of the restoration of the engineering control. The report must include all information pertinent to the emergency, potential discharges of contaminants, and restoration measures that were implemented, which, at a minimum, should specify: (a) the nature and likely cause of the emergency, (b) the potential discharges of or exposures to contaminants, if any, that may have occurred, (c) the measures that have been taken to mitigate the effects of the emergency on human health and the environment, (d) the measures completed or implemented to restore the engineering control, and (e) the changes to the engineering control or site operation and maintenance plan to prevent reoccurrence of such conditions in the future. The owner, lessee, or operator shall submit the report to:

Department of Environmental Protection
Division of Remediation Management and Response
Bureau of Operation, Maintenance, and Monitoring
Deed Notice Inspection Program
P.O. Box 413
401 E. State Street
Trenton, NJ 08625-0413

7A. MONITORING AND MAINTENANCE OF DEED NOTICE, AND PROTECTIVENESS CERTIFICATION. The persons in any way responsible, pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11a et seq., for the hazardous substances that remain at the Property, the persons responsible for conducting the remediation, the Owner, and the subsequent owners, lessees, and operators, shall monitor and maintain this Deed Notice, and certify to the Department on a biennial basis that the remedial action that includes this Deed Notice remains protective of the public health and safety and of the environment. The subsequent owners, lessees and operators have this obligation only during their ownership, tenancy, or operation. The specific obligations to monitor and maintain the deed notice shall include all of the following:

i. Monitoring and maintaining this Deed Notice according to the requirements in Exhibit C, to ensure that the remedial action that includes the Deed Notice continues to be protective of the public health and safety and of the environment;

ii. Conducting any additional remedial investigations and implement any additional remedial actions, that are necessary to correct, mitigate, or abate each problem related to the protectiveness of the remedial action for the site prior to the date that the certification is due to the Department pursuant to iii, below, in order to ensure that the remedial action that includes this Deed Notice remains protective of the public health and safety and of the environment.

iii. Certify to the Department of Environmental Protection as to the continued protectiveness of the remedial action that includes this Deed Notice, on a form provided by the Department and consistent with N.J.A.C. 7:26C-1.2 (a)1, every two years on the anniversary of the date stamped on the deed notice that indicates when the deed notice was recorded;

7B. MONITORING AND MAINTENANCE OF ENGINEERING CONTROLS, AND PROTECTIVENESS CERTIFICATION. The persons in any way responsible, pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11a et seq., for the hazardous substances that remain at the Property, the person responsible for conducting the remediation, and, the Owner, and the subsequent owners, lessees, and operators, shall maintain all engineering controls at the Property and certify to the Department on a biennial basis that the remedial action of which each engineering control is a part remains protective of the public health and safety and of the environment. The subsequent owners, lessees and operators have this obligation only

during their ownership, tenancy, or operation. The specific obligations to monitor and maintain the engineering controls shall include the following:

- i. Monitoring and maintaining each engineering control according to the requirements in Exhibit C, to ensure that the remedial action that includes the engineering control continues to be protective of the public health and safety and of the environment;
- ii. Conducting any additional remedial investigations and implement any additional remedial actions, that are necessary to correct, mitigate, or abate each problem related to the protectiveness of the remedial action for the Property prior to the date that the certification is due to the Department pursuant to iii, below, in order to ensure that the remedial action that includes the engineering control remains protective of the public health and safety and of the environment.
- iii. Certify to the Department of Environmental Protection as to the continued protectiveness of the remedial action that includes the engineering control, on a form provided by the Department and consistent with N.J.A.C. 7:26C-1.2 (a)1, every two years on the anniversary of the date stamped on the deed notice that indicates when the deed notice was recorded.

8. ACCESS. The Owner and the subsequent owners, lessees and operators agree to allow the Department, its agents and representatives access to the Property to inspect and evaluate the continued protectiveness of the remedial action that includes this Deed Notice and to conduct additional remediation to ensure the protection of the public health and safety and of the environment if persons responsible for monitoring the protectiveness of the remedial action, as described in Paragraph 7, above, fail to conduct such remediation pursuant to this Deed Notice as required by law. The Owner, and the subsequent owners and lessees, shall also cause all leases, subleases, grants, and other written transfers of an interest in the Restricted Areas to contain a provision expressly requiring that all holders thereof provide such access to the Department.

9. NOTICES.

i. The Owner and the subsequent owners and lessees, shall cause all leases, grants, and other written transfers of an interest in the Restricted Areas to contain a provision expressly requiring all holders thereof to take the Property subject to the restrictions contained herein and to comply with all, and not to violate any of the conditions of this Deed Notice. Nothing contained in this Paragraph shall be construed as limiting any obligation of any person to provide any notice required by any law, regulation, or order of any governmental authority.

ii. Owner and all subsequent owners and lessees shall notify any person intending to conduct invasive work or excavate within the Restricted Areas at the Property, including, without limitation, tenants, employees of tenants, and contractors of the nature and location of contamination in the Restricted Areas, and, of the precautions necessary to minimize potential human exposure to contaminants.

iii. The Owner and the subsequent owners shall provide written notice to the Department of Environmental Protection at least thirty (30) calendar days before the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of the owner's interest in the Restricted Area.

iv. The Owner and the subsequent owners shall provide written notice to the Department within thirty (30) calendar days following the owner's petition for or filing of any document initiating a rezoning of the Property. The Owner and the subsequent owners shall submit the written notice to:

Department of Environmental Protection
Division of Remediation Management and Response
Bureau of Operation, Maintenance, and Monitoring
Deed Notice Inspection Program
P.O. Box 413
401 E. State Street
Trenton, NJ 08625-0413.

10. ENFORCEMENT OF VIOLATIONS.

i. This Deed Notice itself is not intended to create any interest in real estate in favor of the Department of Environmental Protection, nor to create a lien against the Property, but merely is intended to provide notice of certain conditions and restrictions on the Property and to reflect the regulatory and statutory obligations imposed as a conditional remedial action for this site.

ii. The restrictions provided herein may be enforceable solely by the Department against any person who violates this Deed Notice. To enforce violations of this Deed Notice, the Department may initiate one or more enforcement actions pursuant to N.J.S.A. 58:10-23.11u and require additional remediation and assess damages pursuant to N.J.S.A. 58:10-23.11g.

11. SEVERABILITY. If any court of competent jurisdiction determines that any provision of this Deed Notice requires modification, such provision shall be deemed to have been modified automatically to conform to such requirements. If a court of competent jurisdiction determines that any provision of this Deed Notice is invalid or unenforceable and the provision is of such a nature that it cannot be modified, the provision shall be deemed deleted from this instrument as though the provision had never been included herein. In either case, the remaining provisions of this Deed Notice shall remain in full force and effect.

12. SUCCESSORS AND ASSIGNS. This Deed Notice shall be binding upon Owner and upon Owner's successors and assigns, and subsequent owners, lessees and operators while each is an owner, lessee, or operator of the Property.

13. MODIFICATION AND TERMINATION.

i. Any person may request in writing, at any time, that the Department modify this Deed Notice where performance of subsequent remedial actions, a change of conditions at the Property, or the adoption of revised remediation standards suggest that modification of the Deed Notice would be appropriate.

ii. Any person may request in writing, at any time, that the Department terminate this Deed Notice because the conditions which triggered the need for this Deed Notice are no longer applicable.

iii. This Deed Notice may be revised or terminated only upon filing of an instrument, executed by the Department, in the office of the County Clerk of Middlesex County, New Jersey, expressly modifying or terminating this Deed Notice.

14A. EXHIBIT A. Exhibit A includes the following maps of the Property and the vicinity:

i. Exhibit A-1: Vicinity Map - A map that identifies by name the roads, and other important geographical features in the vicinity of the Property (for example, Hagstrom County Maps);

ii. Exhibit A-2: Metes and Bounds Description - A metes and bounds description of the Property, including reference to tax lot and block numbers for the Property;

iii. Exhibit A-3: Property Map - A scaled map of the Property, scaled at one inch to 200 feet or less, and if more than one map is submitted, the maps shall be presented as overlays, keyed to a base map; and the Property Map shall include diagrams of major surface topographical features such as buildings, roads, and parking lots.

14B. EXHIBIT B. Exhibit B includes the following descriptions of the Restricted Areas:

i. Exhibit B-1: Restricted Area Map - A separate map for each restricted area that includes:

(A) As-built diagrams of each engineering control, including caps, fences, slurry walls, ground water monitoring wells, and ground water pumping system;

(B) As-built diagrams of any buildings, roads, parking lots and other structures that function as engineering controls; and

(C) Designation of all soil and sediment sample locations within the restricted areas that exceed any soil or sediment standard that are keyed into one of the tables described in the following paragraph.

ii. Exhibit B-2: Restricted Area Data Table - A separate table for each restricted area that includes:

- (A) Sample location designation from Restricted Area map (Exhibit B-1);
- (B) Sample elevation based upon mean sea level;
- (C) Name and chemical abstract service registry number of each contaminant with a concentration that exceeds the unrestricted use standard;
- (D) The restricted and unrestricted use standards for each contaminant in the table;
and
- (E) The remaining concentration of each contaminant at each sample location at each elevation (or if historic fill, include data from the Department's default concentrations at N.J.A.C. 7:26E-4.6, Table 4-2).

14C. EXHIBIT C. Exhibit C includes narrative descriptions of the institutional controls and engineering controls as follows:

i. Exhibit C-1: Deed Notice as Institutional Control: Exhibit C-1 includes a narrative description of the restriction and obligations of this Deed Notice that are in addition to those describe above, as follows:

(A) General Description of this Deed Notice:

- (1) Description and estimated size of the Restricted Areas as described above;
- (2) Description of the restrictions on the Property by operation of this Deed Notice; and
- (3) The objective of the restrictions.

(B) Description of the monitoring necessary to determine whether:

- (1) Any disturbances of the soil in the Restricted Areas did not result in the unacceptable exposure to the soil contamination;
- (2) There have been any land use changes subsequent to the filing of this Deed Notice or the most recent biennial certification, whichever is more recent;
- (3) The current land use on the Property is consistent with the restrictions in this Deed Notice;

(4) Any newly promulgated or modified requirements of applicable regulations or laws apply to the site; and

(5) Any new standards, regulations, or laws apply to the site that might necessitate additional sampling in order to evaluate the protectiveness of the remedial action which includes this Deed Notice, and conduct the necessary sampling.

(C) Description of the following items that will be included in the biennial certification:

(1) A monitoring report that describes the specific activities, pursuant to (A) and (B), above, conducted in support of the biennial certification of the protectiveness of the remedial action that includes this Deed Notice;

(2) Land use at the Property is consistent with the restrictions in this Deed Notice; and

(3) The remedial action that includes this Deed Notice continues to be protective of the public health and safety and of the environment.

ii. Exhibit C-2, Soil Cap as Engineering Control. Exhibit C-2 includes a narrative description of the Soil Cap as follows:

(A) General Description of the engineering control:

(1) Description of the engineering control;

(2) The objective of the engineering control; and

(3) How the engineering control is intended to function.

(B) Description of the operation and maintenance necessary to ensure that:

(1) Periodic inspections of each engineering control are performed in order to determine its integrity, operability, and effectiveness;

(2) Each engineering control continues as designed and intended to protect the public health and safety and the environment;

(3) Each alteration, excavation or disturbance of any engineering control is timely and appropriately addressed to maintain the integrity of the engineering control;

(4) This engineering control is being inspected and maintained and its integrity remains so that the remedial action continues to be protective of the public health and safety and of the environment;

(5) A record of the self-inspection dates, name of the inspector, results of the inspection and condition(s) of this engineering control. Sampling, for example, may be necessary if it is not possible to visually evaluate the integrity/ performance of this engineering control; and

(6) Any new standards, regulations, or laws apply to the site that might necessitate additional sampling in order to evaluate the protectiveness of the remedial action which includes this Deed Notice, and conduct the necessary sampling.

(C) Description of the following items that will be included in the biennial certification:

(1) A monitoring report that describes the specific activities, pursuant to (A) and (B), above, conducted in support of the biennial certification of the protectiveness of the remedial action that includes this Deed Notice;

(2) The engineering controls continue to operate as designed; and

(3) The remedial action that includes the engineering control continues to be protective of the public health and safety and of the environment.

15. SIGNATURES. IN WITNESS WHEREOF, Owner has executed this Deed Notice as of the date first written above.

WITNESS:

(b) (6)
[Signature]

(b) (6)
Steven R. Schiesswohl
Realty Officer

STATE OF Colorado
COUNTY OF Jefferson

SS.:

N.J.A.C. Section 7:26E - Deed Notice
U.S. Department of Energy Office of Legacy Management
986 Jersey Avenue, New Brunswick, Middlesex County, NJ

I certify that on Sept. 16, 2007, Steven R. Schiesswohl, U.S. Department of Energy Office of Legacy Management, personally came before me, and this person acknowledged under oath, to my satisfaction, that this person.

(a) is named in and personally signed this document; and

(b) signed, sealed and delivered this document as his or her act and deed.

(b) (6)

ANDREA WILSON
MANAGER, LITIGATION SUPPORT, Notary Public
[Print Name and Title]

EXHIBIT A

Exhibit A includes the following maps of the Property and the vicinity:

i. Exhibit A-1: Vicinity Map

A map that identifies by name the roads, and other important geographical features in the vicinity of the Property (for example, Hagstrom County Maps).

See Figure A-1

ii. Exhibit A-2: Metes and Bounds Description

A metes and bounds description of the Property, including reference to tax lot and block numbers for the Property is included as Figure A-2.

The recorded property description is attached in the form of the sealed 2007 survey conducted by DOE to facilitate property disposition.

iii. Exhibit A-3: Property Map

A scaled map of the Property, scaled at one inch to 200 feet or less, and if more than one map is submitted, the maps shall be presented as overlays, keyed to a base map; and the Property Map shall include diagrams of major surface topographical features such as buildings, roads, and parking lots.

A land survey map is attached as Figure A-3. This map was generated in conjunction with the 2007 sealed land survey.

ILLEGIBLE ORIGINAL
Middlesex County Clerk

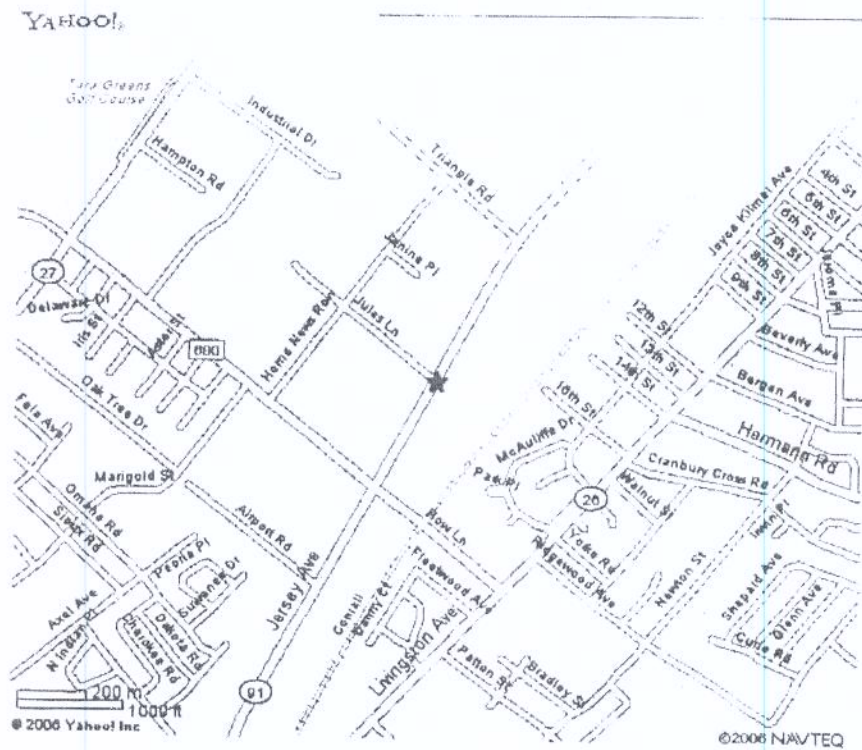


Figure A-1. Vicinity Map, 986 Jersey Avenue, New Brunswick, NJ



SCHOOR DEPALMA
Engineers and Consultants

DESCRIPTION OF PROPERTY
CITY OF NEW BRUNSWICK
MIDDLESEX COUNTY, NEW JERSEY

BLOCK 598 LOT 6
PROJECT NO. 060127301
MARCH 15, 2007

All that certain lot, tract or parcel of land situate, lying and being in the City of New Brunswick, in the County of Middlesex, and the State of New Jersey and being all of Existing Block 598 Lot 6, said lot as shown on a the Official Tax Map of the City of New Brunswick, sheet no. 80, said lots also as shown on a certain map entitled "Plan of Survey, S.M. Stoller Corporation, Block 598 Lot 6, The City of New Brunswick, Middlesex County, New Jersey", prepared by Schoor DePalma, Manalapan, N.J., dated May 5, 2006, and being further described as follows, to wit:

BEGINNING at a point marked by a re-bar with cap found in the existing southeasterly line of Jersey Avenue, (66' R.O.W.), said line being distant 33' measured southeasterly from and parallel with the centerline thereof, said point, being the point of intersection formed by the existing southwesterly line of Lot 2 Block 598, said adjoining lot as shown on the aforesaid map, where said line intersects the aforesaid existing southeasterly line of Jersey Avenue, and from said point of intersection running, thence;

- 1) South forty degrees thirty-three minutes zero seconds East (S 40°33'00" E), six hundred thirty and thirty-nine hundredths feet (630.39'), along the aforesaid existing southwesterly line of Lot 2 Block 598 and beyond, along the existing southwesterly line of Lot 3 Block 598, to a point in the existing northwesterly line of Lot 3.01 Block 598, said adjoining lots as shown on the aforesaid map, thence;
- 2) South fifty degrees zero minutes zero seconds West (S 50°00'00" W), three hundred sixty-five and fourteen hundredths feet (365.14'), along the aforesaid existing northwesterly line of Lot 3.01 Block 598, to a point in the same, thence;
- 3) North forty-nine degrees fifty-three minutes fifteen seconds West (N 49°53'15" W), five hundred fifty-nine and thirty-four hundredths feet (559.34'), along the existing northeasterly line of Lot 7 Block 598, said adjoining lot as shown on the aforesaid map, to a point in the aforesaid existing southeasterly line of Jersey Avenue, thence;
- 4) North forty degrees six minutes forty-five seconds East (N 40°06'45" E), four hundred sixty-two and zero hundredths feet (462.00'), along the aforesaid existing southeasterly line of Jersey Avenue, to a point in the same, the Point and Place of **BEGINNING**.

CONTAINING 244,295.18 square feet of land or 5.61 acres of land more or less.

QualityFirst

Justin Corporate Center, 200 State Highway Nine | PO Box 900 | Manalapan, NJ 07726-0900
tel 732.677.9000 | fax 732.577.9888 | www.schoordepalma.com

New Jersey Pennsylvania New York Florida Arizona Maryland Nevada

Advantage Engineering - A division of Schoor DePalma | CM&E Inc. - A subsidiary of Schoor DePalma | Damiano Long - A division of Schoor DePalma

*Figure A-2. Metes and Bounds Description for
986 Jersey Avenue, New Brunswick, NJ*

N.J.A.C. Section 7:26E - Deed Notice
U.S. Department of Energy Office of Legacy Management
986 Jersey Avenue, New Brunswick, Middlesex County, NJ



060127301
March 16, 2007
Page 2

The foregoing description was prepared by the undersigned surveyor for the firm of Schoor DePalma and is based upon a certain map entitled "Plan of Survey, S.M. Stoller Corporation, Block 598 Lot 6, The City of New Brunswick, Middlesex County, New Jersey", prepared by Schoor DePalma, Manalapan, N.J., dated May 5, 2006

(b) (6)

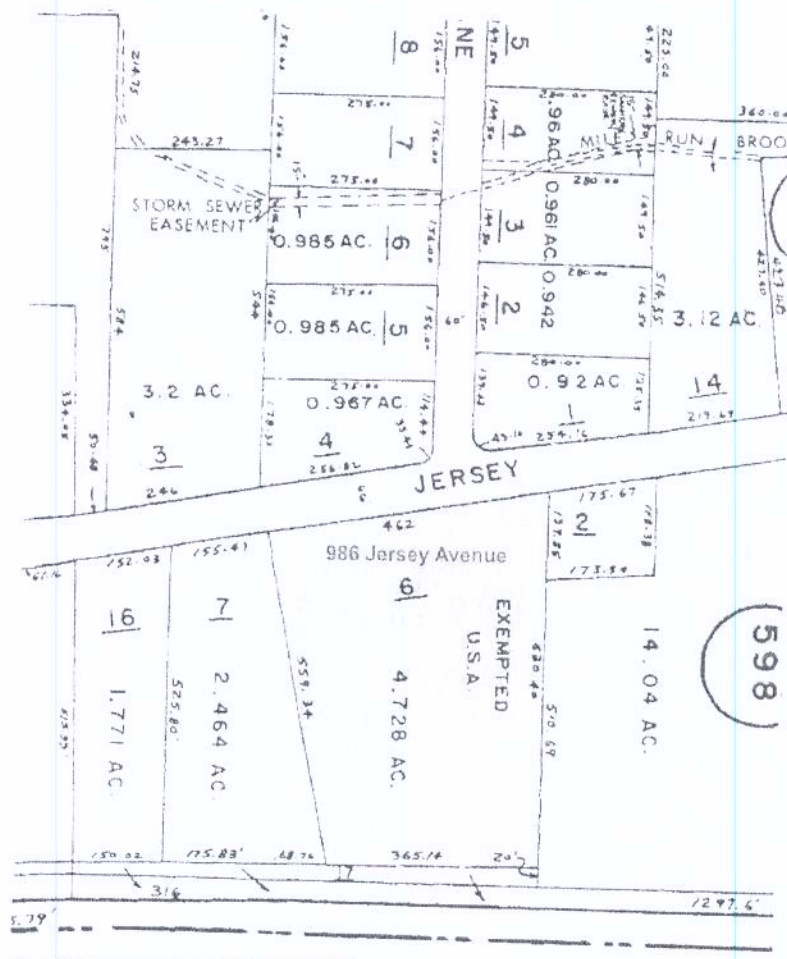
Martin F. Tirella
New Jersey P.L.S.
License No. 27477

JA/man

N:\project\2006\0601273\BLOCK 598 LOT 6.doc

*Figure A-2 (continued). Metes and Bounds Description for
986 Jersey Avenue, New Brunswick, NJ*

ILLEGIBLE ORIGINAL
Middlesex County Clerk



NORTH BRUNSWICK TOWNSHIP

[illegible]

Page 17 of 28

805871 P0883



ILLEGIBLE ORIGINAL
 Middlesex County Clerk

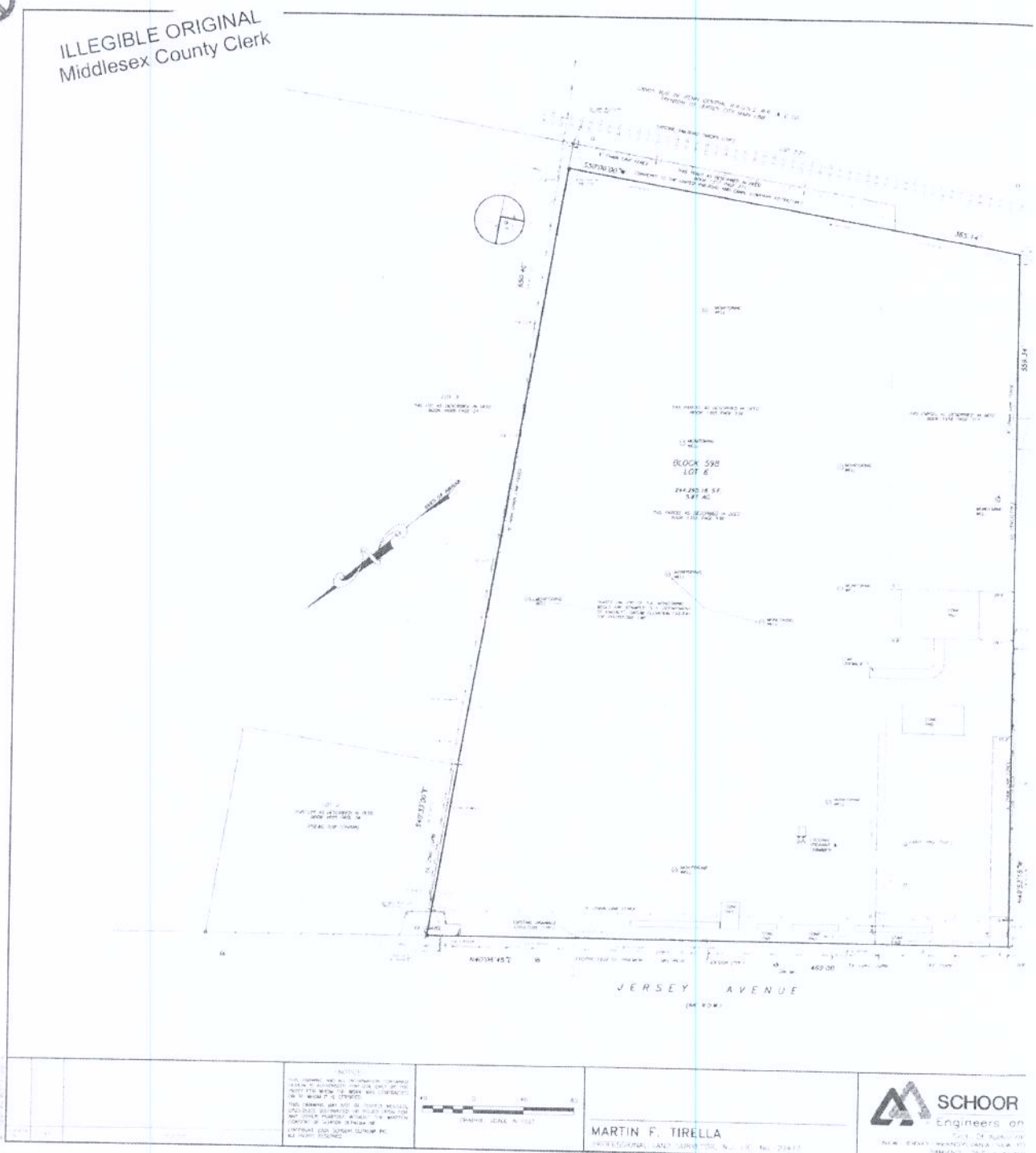


Figure A-3. Property Map for S

805871P0884

11

11

[illegible]

805871P0885

EXHIBIT B

EXHIBIT B. Exhibit B includes the following descriptions of the Restricted Areas:

Exhibit B-1: Restricted Area Map

A separate map for each restricted area that includes:

- (A) As-built diagrams of each engineering control, including caps, fences, slurry walls, ground water monitoring wells, and ground water pumping system;
- (B) As-built diagrams of any buildings, roads, parking lots and other structures that function as engineering controls; and
- (C) Designation of all soil and sediment sample locations within the restricted areas that exceed any soil or sediment standard that are keyed into one of the tables described in the following paragraph

See Figure B-1.

Exhibit B-2: Restricted Area Data Table

A separate table for each restricted area that includes:

- (A) Sample location designation from Restricted Area.
- (B) Sample elevation based upon mean sea level;
- (C) Name and chemical abstract service registry number of each contaminant with a concentration that exceeds the unrestricted use standard;
- (D) The restricted and unrestricted use standards for each contaminant in the table; and
- (E) The remaining concentration of each contaminant at each sample location at each elevation (or if historic fill, include data from the Department's default concentrations at N.J.A.C. 7:26E-4.6, Table 4-2).

The average arsenic concentration for the surveyed locations was 17.4 mg/Kg; the average thallium concentration was 5.6 mg/Kg; the average toxaphene concentration was 139 mg/Kg (FUSRAP Technical Memorandum, 15 December 1997 from Steve Wilkinson to Ben Wood, Re: Segmented Gate System and Post-Remedial Action Soil Sampling Activities at the New Brunswick Site in DOE 2001, *Certification Docket for the Remedial Action Performed at the New*

Brunswick Site in New Brunswick, New Jersey. Table B-1 summarizes available information for the property at 986 Jersey Avenue.

Table B-1. Restricted Area Data Table, 986 Jersey Avenue, New Brunswick, NJ

Sample Location Designation ^a	Sample Elevation (feet above msl) ^b	Contaminant Name	CAS Number	Standard ^c (mg/Kg)	Concentration (mg/Kg)
S-45		Arsenic	7440382	20	40.8
S-45		Thallium	7440280	2	20.3
S-55		Arsenic	7440382	20	27.5
S-55		Thallium	7440280	2	12.3
S-20		Arsenic	7440382	20	23.0
S-20		Thallium	7440280	2	3.4
S-35		Thallium	7440280	2	8.2
S-43		Thallium	7440280	2	12.4
East side ^d		Arsenic	7440382	20	51.6
East side ^d		Arsenic	7440382	20	55.4
East side ^d		Arsenic	7440382	20	50.3
East side ^d		Arsenic	7440382	20	36.6
Excavated Area ^e		Toxaphene		0.1/0.2	139 ^f

^a Sample locations are shown on Figure B-1.

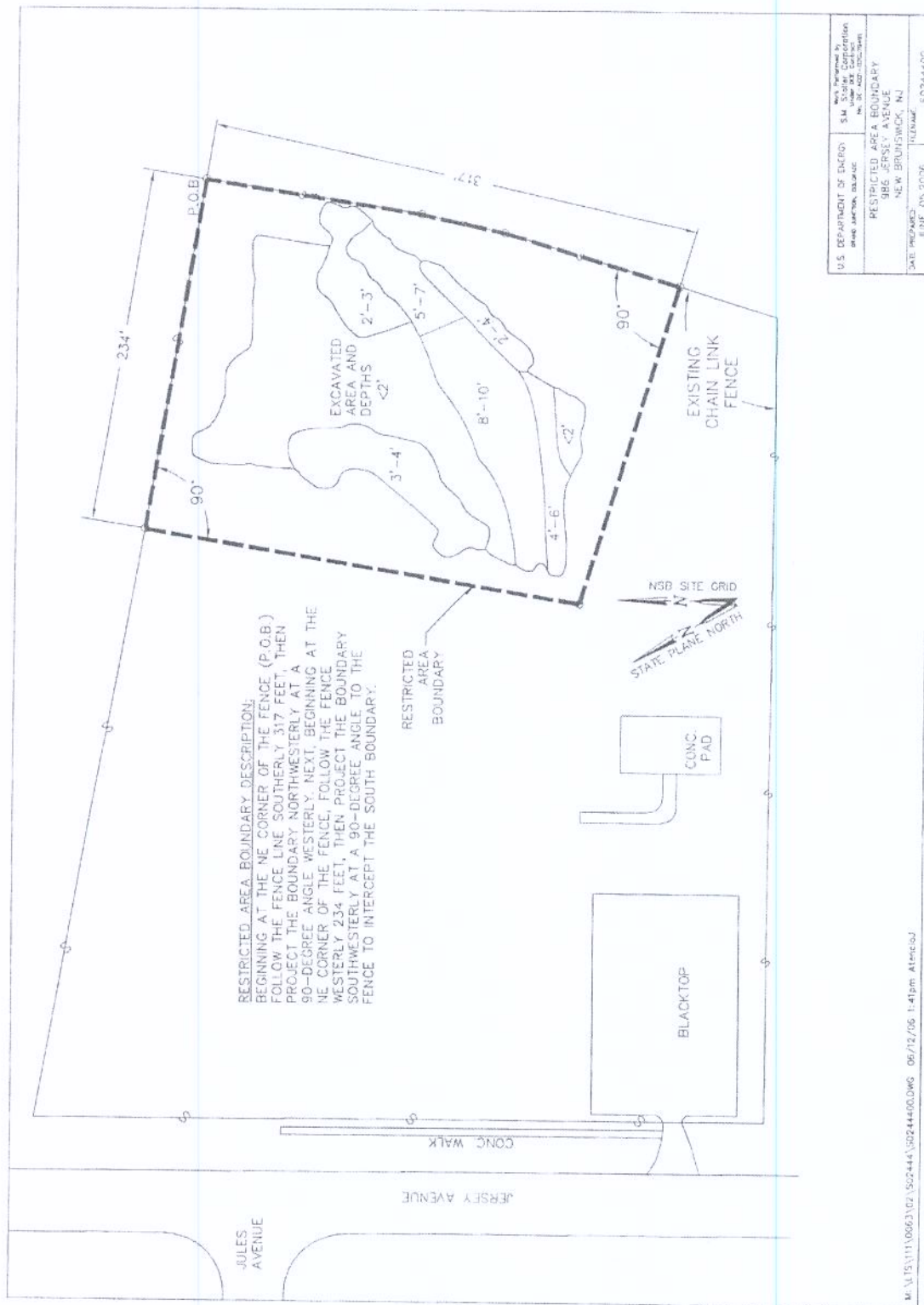
^b Neither sample depth information nor final topography provided. Samples are assumed to have been collected from the top 6 inches of the excavation floor. Depths of excavation are shown on Figure B-1. Original topography is shown on Figure B-3.

^c New Jersey Residential and Non-Residential Direct Contact Soil Cleanup Criteria.

^d It is assumed that chemical data for samples without grid numbers on summary table provided by USACE correspond to chemical sampling locations from the east side of the property shown on Figure B-2.

^e Toxaphene data were averaged across the excavated area. The New Jersey Residential Direct Contact Soil Cleanup Criteria are 100 mg/Kg for residential exposure and 200 mg/Kg for nonresidential exposure.

^f Toxaphene data were reported in FUSRAP Technical Memorandum No.144-970014. Because toxaphene standards in this report were incorrectly stated as 100 and 200 mg/Kg instead of 0.1 and 0.2 µg/Kg, it is assumed that toxaphene results are probably µg/Kg instead of mg/Kg. Subsequent soil sampling (USACE 2005) indicated toxaphene concentrations below 100 µg/Kg.

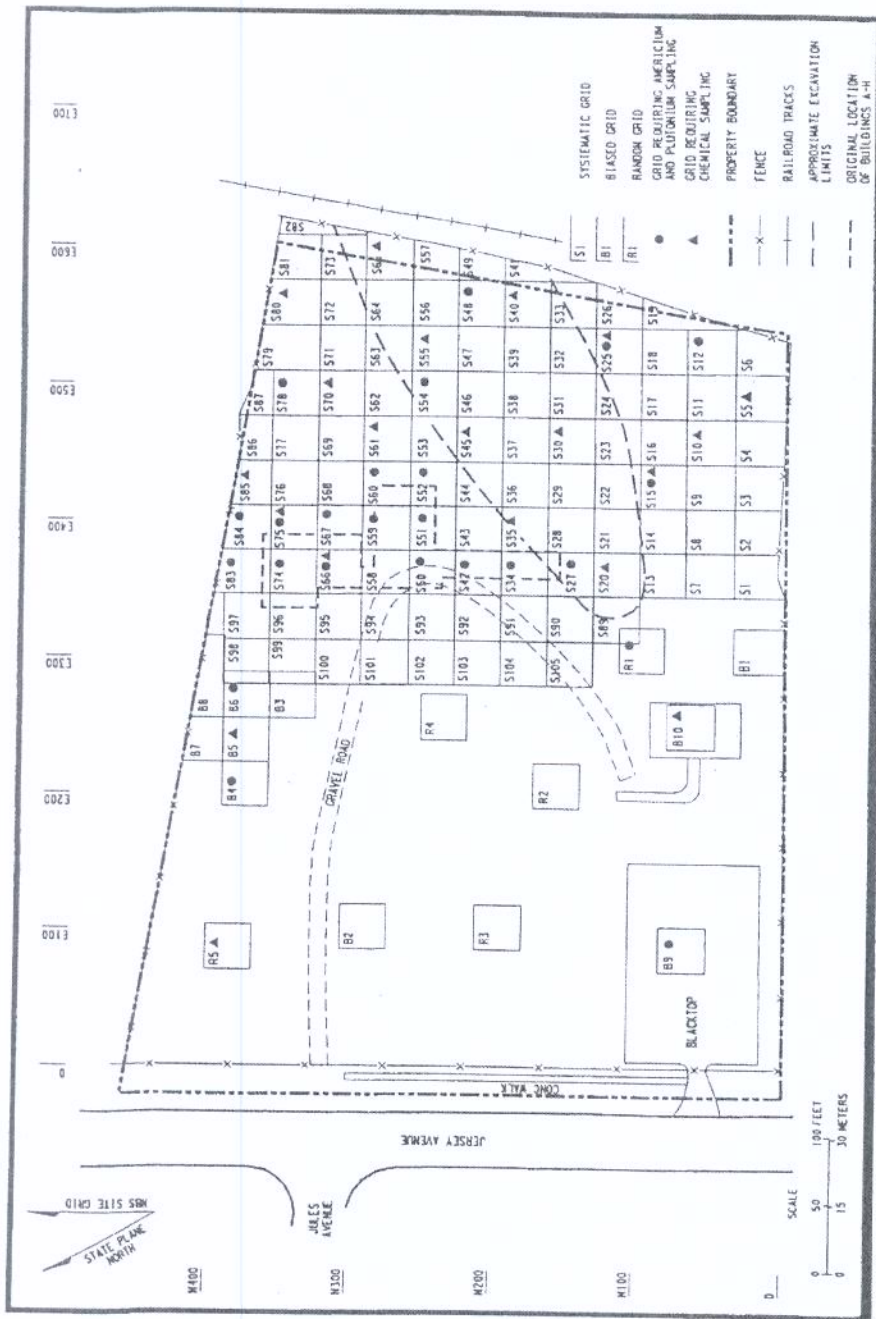


Reference: USACE 2004. New Brunswick FUSRAP Project Final Status Survey Report, July.
 Figure B-1. Restricted Area Map (Soil Cap Extent and Thickness), 986 Jersey Avenue, New Brunswick, NJ

5871-888

N.J.A.C. Section 7:26E - Deed Notice
 U.S. Department of Energy Office of Legacy Management
 986 Jersey Avenue, New Brunswick, Middlesex County, NJ

ILLEGIBLE ORIGINAL
 Middlesex County Clerk



SITE TOPOGRAPHY
 AS OF APRIL 1979

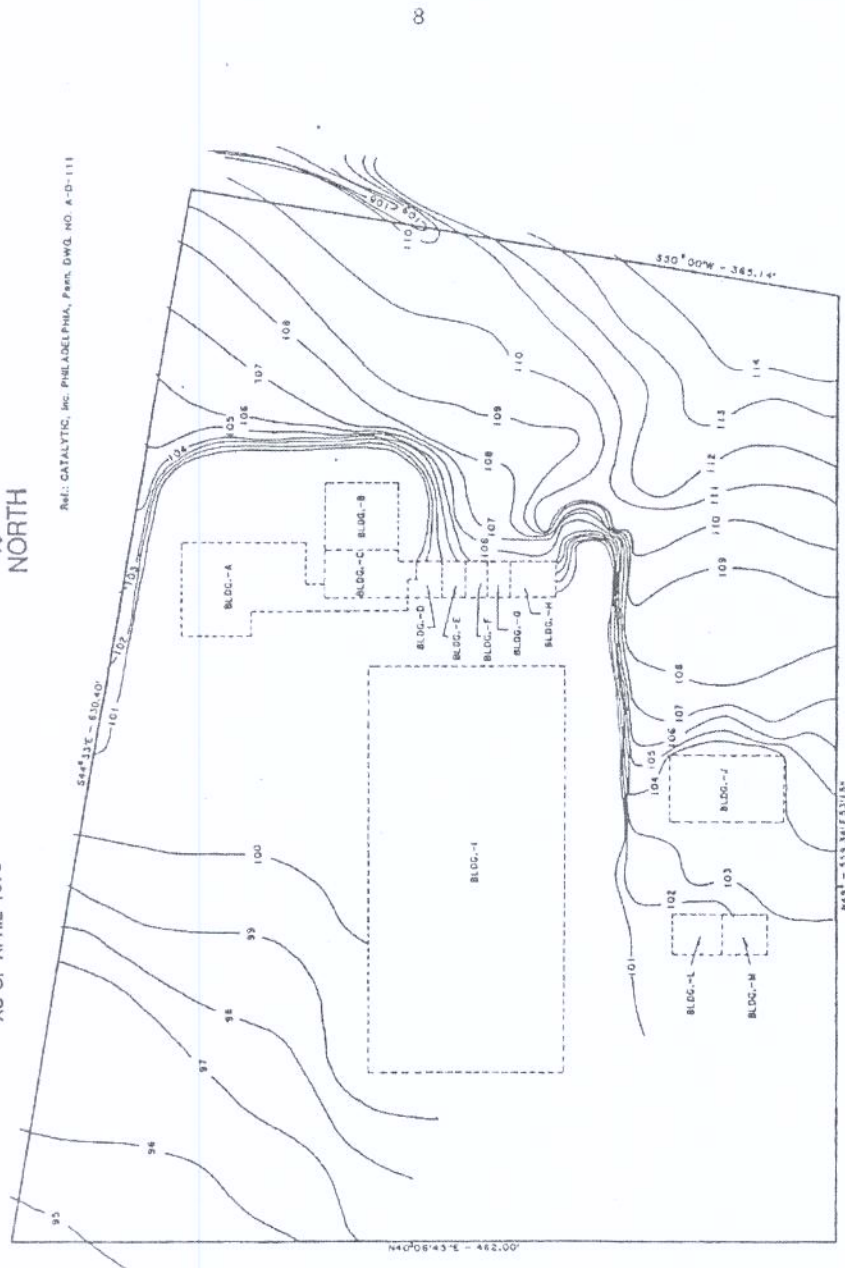


EXHIBIT C.

Exhibit C includes narrative descriptions of the institutional controls and engineering controls as follows:

Exhibit C-1: Deed Notice as Institutional Control:

Exhibit C-1 includes a narrative description of the restriction and obligations of this Deed Notice that are in addition to those describe above, as follows:

(A) General Description of this Deed Notice:

- (1) Description and estimated size of the Restricted Areas as described above:

The restricted area consists of the area of soil excavated and treated to remove radiological contamination. The restricted area is approximately 37,000 ft² (3483 m²) in size (see Figure B-1). Treated site soil meeting radiological criteria for depths of greater than 6 inches was used as backfill. These soils were covered to grade with additional fill that meets radiological criteria for surface soils. Sampling indicated that soils below the backfill contain elevated concentrations of arsenic and thallium that exceed New Jersey Residential Direct Contact Soil Cleanup Criteria (Table B-1).

- (2) Description of the restrictions on the Property by operation of this Deed Notice:

The owner shall not perform excavation or earth-moving activities in the restricted area without first obtaining approval from the U.S. Department of Energy, Office of Legacy Management (DOE) ([970] 248-6070). Written approval must also be obtained from the New Jersey Department of Environmental Protection (NJDEP) at (877) 927-6337 (the NJDEP hotline number) if there is a disturbance to the engineering controls for greater than 60 calendar days or if other conditions of the conditions in Section 6A cannot be met.

- (3) The objective of the restrictions.

This restriction is intended to control exposure to the deeper soils containing arsenic and thallium, and to prevent the spread of the soil to other parts of the property or to off-property locations.

(B) Description of the monitoring necessary to determine whether:

- (1) Any disturbances associated with the soil in the Restricted Areas did not result in the unacceptable exposure to the soil contamination:

DOE or an agent of DOE will physically inspect the site once every two years to determine if soil in the restricted area has been subjected to any excavation or earth-moving activities. Results of the inspection will be reported to NJDEP as a biennial certification in accordance with N.J.A.C. 7:26E-8.5.

- (2) There have been any land use changes subsequent to the filing of this Deed Notice or the most recent biennial certification, whichever is more recent:

In conjunction with the biennial inspection, DOE or an agent of DOE will contact the City of New Brunswick, NJ, Department of Planning, Community and Economic Development and the Middlesex County, NJ, Planning Board to determine if zoning restrictions have been modified since the last inspection. DOE also will contact the New Jersey Department of Environmental Protection Division of Water Supply, Bureau of Water Systems and Well Permitting, to confirm that no well permits have been issued for the restricted area within the subject property. Note that well drilling is not restricted except as it may result in disturbance of soil in the restricted area.

- (3) The current land use on the Property is consistent with the restrictions in this Deed Notice:

The Property is currently zoned I-2 Industrial—General Industrial District by the City of New Brunswick, NJ, Department of Planning, Community, and Economic Development. During the biennial inspection, DOE or an agent of DOE will ascertain if land use changes have occurred within the restricted area that have not been approved by DOE and NJDEP. This information will be included in the biennial certification. If land use has changed and does not comply with the conditions of this Deed Notice, and DOE determines that the new land use may pose a risk to human health or the environment, DOE will notify the New Jersey Department of Environmental Protection at (877) 927-6337 (the NJDEP hotline number) within 48 hours.

- (4) Any newly promulgated or modified requirements of applicable regulations or laws apply to the site:

In conjunction with the biennial inspection, DOE or an agent of DOE will contact the City of New Brunswick, NJ, Department of Planning, Community and Economic Development; the Middlesex County, NJ, Planning Board; and the New Jersey Department of Environmental Protection to determine if any newly promulgated or modified requirements of applicable regulations or laws apply to the site.

- (5) Any new standards, regulations, or laws apply to the site that might necessitate additional sampling in order to evaluate the protectiveness of the remedial action which includes this Deed Notice, and conduct the necessary sampling:

If any newly promulgated or modified requirements of applicable regulations or laws apply to the site, DOE will determine if additional sampling is required and report conclusions in the biennial certification.

(C) Description of the following items that will be included in the biennial certification:

DOE will include the following information in the biennial certification report:

- (1) A monitoring report that describes the specific activities, pursuant to (A) and (B), above, conducted in support of the biennial certification of the protectiveness of the remedial action that includes this Deed Notice:
- (2) Land use at the Property is consistent with the restrictions in this Deed Notice:
- (3) The remedial action that includes this Deed Notice continues to be protective of the public health and safety and of the environment.

Exhibit C-2: Soil Cap as Engineering Control:

Exhibit C-2 includes a narrative description of soil cap as follows:

(A) General Description of the engineering control:

- (1) Description of the engineering control;

The engineering control consists of a soil cap varying in thickness from less than 2 feet to as much as 10 feet in thickness (see Figure B-1).

- (2) The objective of the engineering control; and

The control is intended to prevent direct exposures to contaminated soils located at depth.

- (3) How the engineering control is intended to function.

The control functions as a physical barrier between receptors and contaminated soils.

(B) Description of the operation and maintenance necessary to ensure that:

- (1) Periodic inspections of each engineering control are performed in order to determine its integrity, operability, and effectiveness;
- (2) Each engineering control continues as designed and intended to protect the public health and safety and the environment;
- (3) Each alteration, excavation or disturbance of any engineering control is timely and appropriately addressed to maintain the integrity of the engineering control;
- (4) This engineering control is being inspected and maintained and its integrity remains so that the remedial action continues to be protective of the public health and safety and of the environment;
- (5) A record of the self-inspection dates, name of the inspector, results of the inspection and condition(s) of this engineering control. Sampling, for example, may be necessary if it is not possible to visually evaluate the integrity/performance of this engineering control; and

To comply with items (B)(1) through (B)(5) above, DOE or an agent of DOE will physically inspect the site once every two years to determine if soil in the restricted area has been subjected to any excavation or earth-moving activities. Results of the inspection will be reported to the New Jersey Department of Environmental Protection as a biennial certification in accordance with N.J.A.C. 7:26E-8.5.

If evidence is encountered indicating disturbance in the restricted area, DOE or an agent of DOE will restore the soil cap to its final remediation depth and will regrade the restricted area to the final contours.

- (6) Any new standards, regulations, or laws apply to the site that might necessitate additional sampling in order to evaluate the protectiveness of the remedial action which includes this Deed Notice, and conduct the necessary sampling.

In conjunction with the biennial inspection, DOE or an agent of DOE will contact the City of New Brunswick, NJ, Department of Planning, Community and Economic Development; the Middlesex County, NJ, Department of Planning, Middlesex County Planning Board; and the New Jersey Department of Environmental Protection to determine if any newly promulgated or modified requirements of applicable regulations or laws apply to the site.

- (C) Description of the following items that will be included in the biennial certification:

DOE will include the following information in the biennial certification report:

- (1) A monitoring report that describes the specific activities, pursuant to (A) and (B), above, conducted in support of the biennial certification of the protectiveness of the remedial action that includes this Deed Notice;
- (2) The engineering controls continue to operate as designed; and
- (3) The remedial action that includes the engineering control continues to be protective of the public health and safety and of the environment.

EXHIBIT B

No Further Action Letter



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JON S. CORZINE
Governor

LISA P. JACKSON
Commissioner

Bureau of Case Management
401 East State Street
P.O. Box 028
Trenton, NJ 08625-0028
Phone #: 609-633-1455
Fax #: 609-633-1439

Allen D. Roos, Project Manager
United States Army Corps of Engineers
100 W Hunter Ave
Maywood, NJ 07607

October 14, 2008

**Re: Conditional No Further Action Letter and Covenant Not to Sue with
Requirements for Biennial Certifications**

Remedial Action Type: Restricted Use for the Area of Concern (Block 598, Lot 6)
ERDA New Brunswick Laboratory
986 Jersey Avenue (aka Highway 91)
New Brunswick City, NJ
Program Interest #: G000000080
Activity Number: RPC000001
Document Title: ERDA-NBS NFA-R AOC Sept 2008

Dear Mr. Roos:

Pursuant to N.J.S.A. 58:10B-13.1 and N.J.A.C. 7:26C, the New Jersey Department of Environmental Protection (Department) issues this Conditional No Further Action Letter and Covenant Not to Sue for the remediation of the area of concern known as Block 598, Lot 6, so long as the United States Army Corps of Engineers did not withhold any information from the Department. This action is based upon information in the Department's case file and the United States Army Corps of Engineers' certified report titled Final Remedial Investigation Technical Memorandum for Soils and Groundwater dated August 17, 2006. In issuing this Conditional No Further Action Letter and Covenant Not to Sue, the Department has relied upon the certified representations and information provided to the Department. To remain in compliance with the terms of this Conditional No Further Action Letter and to maintain the benefits of the Covenant Not to Sue, the United States Army Corps of Engineers as well as each subsequent owner, lessee and operator must comply with the conditions noted below.

By issuance of this Conditional No Further Action Letter, the Department acknowledges the completion of a Remedial Investigation and Remedial Action pursuant to the Technical Requirements for Site Remediation (N.J.A.C. 7:26E) for the area of concern known as Block 598, Lot 6 and no other areas. The area of concern known as Manhole 26 is specifically not included in this Conditional No Further Action Letter. The

Department reserves its rights to require any person responsible for the contamination at the site to address Natural Resource Injuries.

CONDITIONS

Pursuant to N.J.S.A. 58:10B-12o, the United States Army Corps of Engineers and any other person who was liable for the cleanup and removal costs, and remains liable pursuant to the Spill Act, shall inform the Department in writing within 14 calendar days whenever its name or address changes. Any notices submitted pursuant to this paragraph shall reference the above case numbers and shall be sent to: Bureau of Case Assignment and Initial Notice -Case Assignment Section, P.O. Box 434, Trenton, N.J. 08625-0434.

The United States Army Corps of Engineers as well as each subsequent owner, lessee and operator (collectively Successors) shall comply with each of the following:

Monitoring of Compliance for Institutional and Engineering Controls and Biennial Certifications

Pursuant to N.J.S.A. 58:10B-13.1 and N.J.A.C. 7:26E-8, the United States Army Corps of Engineers and the Successors shall conduct monitoring for compliance and effectiveness of the institutional and engineering controls specified in this document and submit written biennial certifications to the Department that the institutional and engineering controls are being properly maintained and continue to be protective of public health and safety and the environment. The biennial certifications are due every two (2) years on the date the institutional control was established. The first biennial certification following the issuance of this Conditional No Further Action Letter is due September 20, 2009. Any such certification shall include the information relied upon to determine that no changes have occurred.

Deed Notice (Institutional and Engineering Control)

Pursuant to N.J.S.A. 58:10B-13a, the United States Army Corps of Engineers and the Successors shall ensure that the Deed Notice filed on September 20, 2007 with Middlesex County Clerk is complied with including maintenance of applicable engineering controls. The deed notice can be found at Deed Book 05871, page 0866 located at the Middlesex County Clerk's office.

COVENANT NOT TO SUE

The Department issues this Covenant Not to Sue (Covenant) pursuant to N.J.S.A. 58:10B-13.1. That statute requires a Covenant not to sue with each conditional no further action letter. However, in accordance with N.J.S.A. 58:10B-13.1, nothing in this Covenant shall benefit any person who is liable, pursuant to the Spill Compensation and Control Act (Spill Act), N.J.S.A. 58:10-23.11, for cleanup and removal costs and the Department makes no representation by the issuance of this Covenant, either express or implied, as to the Spill Act liability of any person.

The Department covenants, except as provided in the preceding paragraph, that it will not bring any civil action against:

- (a) the person who undertook the remediation;
- (b) subsequent owners of the subject property;
- (c) subsequent lessees of the subject property; and
- (d) subsequent operators at the subject property;

for the purposes of requiring remediation to address contamination which existed prior to the date of the certified report titled Final Remedial Investigation Technical Memorandum for Soils and Groundwater dated August 17, 2006 for the real property at areas of concern identified above, payment of compensation for damages to, or loss of, natural resources, for the restoration of natural resources in connection with the discharge on the property, or payment of cleanup and removal costs for such additional remediation.

The person who undertook the remedial action, and each subsequent owner, lessee and operator, during that person's ownership, tenancy or operation, shall maintain all applicable engineering and institutional controls and conduct periodic compliance monitoring in the manner the Department requires.

Any person who benefits from this Covenant may be barred from making a claim against the Spill Compensation Fund, N.J.S.A. 58:10-23.11i, and the Sanitary Landfill Facility Contingency Fund, N.J.S.A. 13:1E-105, for any costs or damages relating to the remediation covered by this Covenant. All other claims against these funds will be controlled by the corresponding statutes and their implementing regulations.

Pursuant to N.J.S.A. 58:10B-13.1d, this Covenant does not relieve any person from the obligation to comply in the future with laws and regulations. The Department reserves its right to take all appropriate enforcement for any failure to do so.

The Department may revoke this Covenant at any time after providing notice upon its determination that:

- (a) any person with the legal obligation to comply with any condition in this Conditional No Further Action Letter has failed to do so;
- (b) any person with the legal obligation to maintain or monitor any engineering or institutional control has failed to do so; or
- (c) any person with the legal obligation to submit, on a biennial basis, a certification that the engineering and institutional controls are being properly maintained and continue to be protective of the public health and safety and of the environment has failed to do so.

This Covenant, which the Department has executed in duplicate, shall take effect immediately once the person who undertook the remediation has signed and dated the Covenant in the lines supplied below and the Department has received one copy of this

document bearing original signatures of the Department and the person who undertook the remediation.

By: Allen D. Roos

Signature: (b) (6)

Title: Project Manager

Dated: 10-30-08

**NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

By: Stephen E. Maybury, Bureau Chief

Signature: (b) (6)

Dated: OCT 14 2008

Thank you for your attention to these matters. If you have any questions, please contact Donna L. Gaffigan of my staff at (609) 633-1494.

Sincerely,

(b) (6)

~~Stephen E. Maybury, Bureau Chief~~
Bureau of Case Management

Enclosures: Deed Notice - with site and deed notice location maps

- c: Donna L. Gaffigan, Case Manager
Patricia Gardner, NJDEP/BER
Christopher Clayton, USDOE
New Brunswick Department of Social Services, Div of Health
Middlesex County Health Department
Municipal Clerk, New Brunswick City
NJDEP-BOMM - Rob Hoch
NJDEP- BISPS - Sandra Norton

EXHIBIT C

Hazardous Substance Activity

Hazardous Substance Activity Certification

Property Name: Former New Brunswick Laboratory, 986 Jersey Avenue, New Brunswick,
New Jersey

Hazardous Substance Activity includes: (1) the known release of hazardous substances in quantities equal to or greater than the reportable quantity found in 40 CFR 302.4; (2) the disposal of a hazardous substance at the subject facility; or (3) the storage for one year or more of a hazardous substance in quantities of 1000 kilograms or more, or the reportable quantity found in 40 CFR 302.4, whichever is greater. Hazardous substance activity includes storage in quantities greater than or equal to one kilogram if the substances are listed under 40 CFR 261.30 as acutely hazardous substances.

Check either statement A or B below:

A. ☐ The reporting agency has determined, based upon a complete search of agency files, that there is no evidence to indicate that hazardous substance activity took place on the property during or prior to federal ownership. Therefore, all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken prior to the report of excess.

B. ☒ Hazardous substance activity occurred on the property. Based upon a complete search of agency files, the attached documents provide the following information:

1. the type and quantity in kilograms and pounds;

Mixed radiological waste resulting from general radiological laboratory operations; residual radioactive contamination resulting from disposal of uranium ore mixed with soil in the abandoned railroad spur, and arsenic in soil in the backfill used to fill the excavation resulting from removal of the residual radioactive contamination. Exact quantities are unknown.

2. the dates that such storage, release or disposal took place;

- 1948 to 1977: DOE and predecessor agencies used property as a radiological chemistry and assay laboratory
- 1960: Soil containing residual radioactive contamination (uranium ore) was disposed of in abandoned railroad spur
- 1978: Remedial Action, Phase I: DOE removed contaminated portions of buildings
- 1983: Remedial Action, Phase II: DOE removed buildings, infrastructure, and contaminated soil
- 1990: DOE designated the site for final remediation under the Formerly Utilized Sites Remedial Action Program (FUSRAP)
- 1996: DOE remediated residual radioactive contamination from railroad spur
- 2006: US Army Corps of Engineers certified that groundwater was not contaminated
- 2006: DOE submitted Deed Notice to impose institutional controls in northeast portion of site where buried soil exceeds New Jersey Department of Environmental; Quality standards
- 2007: Deed Notice recorded in Records of Middlesex County, NJ, on September 20
- 2008: NJDEP issued determination of conditional No Further Action for DOE-owned property on October 14
- 2009: DOE conducted investigation of sanitary sewer and found no radiological contamination

(and the following information if applicable)

3. the Chemical Abstracts Services Registry Number (CASRN);

Arsenic: 7440382

4. the regulatory synonym; and

None

5. the RCRA hazardous waste number (40 CFR 261.30).

D004

If B was checked above, you must check either C or D below:

- C. ☒ All remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken prior to the report of excess. Provide copies of all reports on the cleanup.¹ (Please note: this requirement is met if EPA has concurred in writing that an installed remedial design is "operating properly and successfully". Please provide a copy of EPA's concurrence.)

The NJDEP conditional No Further Action determination, issued October 14, 2008, documents that the property is protective of human health and the environment as long as the soil cap covering the arsenic-contaminated soil is not disturbed. The Deed Notice has been recorded in the Records of the County of Middlesex (see reference below) and is made a part of the real property record that will be disclosed to all future owners.

Documentation of hazardous substances activity:

DOE (U.S. Department of Energy), 2009. *New Brunswick, New Jersey, Site Sanitary Sewer Investigation (Manhole 26) Report*, Document Number LMS/NBL/S05387, Grand Junction, Colorado, June.

DOE (U.S. Department of Energy), 2007. Deed Notice, 986 Jersey Avenue, New Brunswick, Middlesex County, NJ, recorded on September 20, 2007, in Book 05871, Pages 0866 to 0895, Records of the County of Middlesex, State of New Jersey.

DOE (U.S. Department of Energy), 2001. *Certification Docket for the Remedial Action Performed at the New Brunswick Site in New Brunswick, New Jersey*, Oak Ridge Operations, Oak Ridge, Tennessee, October, available at http://www.lm.doe.gov/New_Brunswick/Documents.aspx.

NJDEP (New Jersey Department of Environmental Protection) 2008. "Conditional No Further Action Letter and Covenant Not to Sue with Requirements for Biennial Certifications," letter from D. Gaffigan, NJDEP, to A. Roos, U.S. Army Corps of Engineers, October 14.

USACE (U.S. Army Corps of Engineers) 2006. *Final Remedial Investigation Technical Memorandum for Soils and Groundwater at the New Brunswick ERDA Site*.

- D. ☐ Remedial action has not yet been taken or completed, but remediation will be completed by _____ (date). Remedial action has not been completed because _____. Attach additional pages if necessary to describe why remedial action has not yet occurred.

Circle the correct response:

The property or a portion thereof ~~is~~ is not proposed for or listed on the National Priorities List of Superfund sites.

¹ Please note that holding agencies are obligated to return to the site and complete any additional remedial action found to be necessary by the applicable regulatory authority with regard to hazardous substance activity that took place on the property prior to the transfer.

NOTE: Please provide copies of all environmental reports, correspondence with regulators and other documents related to the environmental condition of the property. In the event that the reporting agency conducts environmental investigations as part of the excessing process, GSA requests use of the ASTM standards for Phase I and Phase II environmental site assessments.

(b) (6)

Signature

Raymond Plienness, Director, Office of Site Operations
Title

U.S. Department of Energy Office of Legacy Management
Agency

Date

9/2/2009